

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID MERRILL of the VAN PELT
family,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

CASE NO. C16-5520 RJB

ORDER TO SHOW CAUSE

This matter comes before the Court *sua sponte* after review of the file.

On June 22, 2016, Plaintiff filed a criminal complaint, allegedly on behalf of the United States of America against David Gilbert, Marla Prudek, Frances Renae Johnson, Kirk Stewart Samelson and Gilbert Martinez. Dkt. 1. Plaintiff makes charges of: conspiracy, “criminal syndicalism statewide (Secretary of State) so that no remedy exist outside the collusion,” exercising office unlawfully, “vacant office,” and “form of oath is to have ever-living God as witness.” *Id.*, at 2. Plaintiff also filed other pleadings, including a “True Bill – Jubilee Claim,” which provides “[t]he US Marshal is ORDERED to cause the Arrests of the listed Defendants herein and to Return a Report to Us, Me and the Court.” Dkt. 1, at 1.

Review of the Complaint. The court has carefully reviewed the complaint in this matter. Because plaintiff filed this complaint *pro se*, the court has construed the pleadings liberally and

1 has afforded plaintiff the benefit of any doubt. *See Karim-Panahi v. Los Angeles Police Dep't*,
 2 839 F.2d 621, 623 (9th Cir.1988).

3 **Jurisdiction and Standing.** “Federal courts are courts of limited jurisdiction,” and there
 4 is a presumption “that a cause [of action] lies outside this limited jurisdiction [.]” *Kokkonen v.*
 5 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A federal court is presumed to lack
 6 subject matter jurisdiction until plaintiff establishes otherwise. *Id.*; *Stock West, Inc. v.*
 7 *Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989).

8 An action must be dismissed for lack of jurisdiction if it: (1) does not arise under the
 9 Constitution, laws, or treaties of the United States, or does not fall within one of the other
 10 enumerated categories of Article III, Section 2, of the Constitution; (2) is not a case or
 11 controversy within the meaning of the Constitution; or (3) is not one described by any
 12 jurisdictional statute. *Baker v. Carr*, 369 U.S. 186, 198 (1962); *D.G. Rung Indus., Inc. v.*
 13 *Tinnerman*, 626 F.Supp. 1062, 1063 (W.D. Wash. 1986). “In its constitutional dimension,
 14 standing imports justiciability; whether the plaintiff has made out a ‘case or controversy’
 15 between himself and the defendant within the meaning of Article III” of the U.S. Constitution.
 16 *Warth v. Seldin*, 422 U.S. 490, 498 (1975). In the “absence of standing, a federal court ‘lacks
 17 subject matter jurisdiction over the suit.’” *Righthaven LLC v. Hoehn*, 716 F.3d 1166, 1172 (9th
 18 Cir. 2013)(*internal citations omitted*).

19 “Under the authority of Art. II, s 2, Congress has vested in the Attorney General the
 20 power to conduct the criminal litigation of the United States Government.” *United States v.*
 21 *Nixon*, 418 U.S. 683, 694 (1974). A citizen, accordingly, may not bring criminal charges against
 22 another by filing a complaint in this court. *See Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th
 23 Cir.1980).

1 Plaintiff's complaint attempts to make criminal charges, on behalf of the United States,
2 against individuals, some who allegedly live in Colorado. It appears that Plaintiff does not have
3 standing to assert these claims. Accordingly, Plaintiff is ordered to show cause, in writing, on or
4 before July 15, 2016, if any he has, why this case should not be dismissed for lack of subject
5 matter jurisdiction. Failure to show cause may result in dismissal of the case.

6 Therefore, it is hereby **ORDERED** that:

- 7 • Plaintiff is ordered to show cause, in writing, if any he has, on or before July 15,
8 2016, why this case should not be dismissed for lack of subject matter
9 jurisdiction;
- 10 • Failure to show cause may result in dismissal of the case.

11 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
12 to any party appearing *pro se* at said party's last known address.

13 Dated this 27th day of June, 2016.

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17 ROBERT J. BRYAN
18 United States District Judge
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